IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO.302 OF 2005

Deepak Vasant Pawar ...Applicant
Vs.
The State of Maharashtra & Anr. ...Respondents

Mr. K. S. Patil for the Applicant.
Ms M.H. Mhatre, A.P.P. for the State.
Mr. Neel Helekar for the Respondent No.2.

CORAM : A. S. OKA, J.
DATE : OCTOBER 18, 2005.

P.C.:

1. Heard the Advocate appearing for the Applicant, the Advocate for the Respondent No.2 and the learned A.P.P. for the State. The Applicant has been convicted for the offence under section 138 of the Negotiable Instruments Act, 1881. The learned Judicial Magistrate, First Class sentenced the Applicant to undergo rigorous imprisonment for three months. He was directed to pay compensation of Rs.02,05,000/- to the complainant. An Appeal was preferred by the Applicant to the Sessions Court which was partly allowed by the Judgment and Order dated 03rd September, 2005. The learned Sessions Judge took a lenient view of the matter and sentenced the Applicant to imprisonment till rising of the court. The learned Sessions Judge directed that on the failure of the Applicant to pay compensation amount of Rs.02,05,000/-, he will have to suffer simple

imprisonment for three months.

2. The learned Advocate appearing for the Applicant submitted that the blank cheques in question were issued by the Applicant and the said cheques have been misused by the Respondent No.2. He submitted that the cheques were issued only by way of security for repayment of loan.

3. I have considered the submissions. The courts below have found that the cheques were issued by the Applicant for discharge of liability. The Applicant has not discharged the burden casted on him by section 139 of the Negotiable Instruments Act, 1881.

4. In Revision Application it is not permissible to re-appreciate the evidence. The courts below have considered the entire oral and documentary evidence on record. There is no manifest error of law or procedural irregularity in the decisions of the courts below. There is no merit in the Revision Application and the same is rejected.

5. At this stage, the learned Advocate appearing for the Applicant without prejudice to his rights and contentions prayed that longer time may be granted to

deposit the compensation amount. He pointed out that the Appellate Court did not grant time and the Applicant was taken in custody and he has already undergone simple imprisonment for twenty-two days before he was enlarged on bail on the basis of the order passed by this Court on 15th September, 2005. He pointed out that a sum of Rs.25,000/- has been already deposited by the Applicant.

6. Considering the facts and circumstances of the case, time is granted to the Applicant to pay the balance compensation amount of Rs.01,80,000/- till 09th December, 2005.

7. In case the Applicant fails to deposit the amount in stipulated time, it will be open for the Applicant to claim appropriate set off in the sentence on the basis of sentence already undergone.

8. Parties to act upon an authenticated copy of this order.

JUDGE